

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
3                   EASTERN DIVISION

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5       ROOSEVELT PARKER,

6                   Plaintiff,

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8       VERSUS                   CIVIL ACTION NO. 2:22-cv-45-HSO-BWR

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10      STATE FARM FIRE AND

11      CASUALTY COMPANY,

12                   Defendant.

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20      VIDEOCONFERENCE DEPOSITION OF SCOTT BERBERICH

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22      Taken via Zoom Videoconference Software, on  
23      Tuesday, January 10, 2023, beginning at  
24      1:00 p.m.

25

1 any videos of Mr. Parker's property?

2 A. None that I'm aware of.

3 Q. What I've put on the screen is what we  
4 previously marked as Exhibit 7, which is the  
5 estimate prepared by Tommy Tompkins. Is that  
6 correct?

7 A. Yes.

8 Q. Can you tell, from looking at this  
9 estimate, what pricing list was used?

10 A. January '22, Mississippi, it looks like  
11 Harrison County.

12 Q. And when you are selecting --

13 A. I'm sorry. Hattiesburg. My bad.

14 Q. Okay. When you are selecting a price  
15 list, are you supposed to choose the date of loss  
16 or some other date?

17 A. That depends on when you are writing the  
18 estimate. To me, in my opinion, you should always  
19 use it -- use the one, the current one at the time  
20 you are writing the estimate.

21 Q. Do you know how depreciation was  
22 calculated in this estimate?

23 A. It was done based on percentage. I have  
24 not looked at every -- I have not looked at every  
25 line item, but I believe the majority of the line

1 items appear to be based on percentage.

2 Q. Let's look at, for example, start with  
3 Line Item Number 3 for the sheathing, and there's  
4 a dollar amount stated for depreciation of  
5 \$560.25. Do you know how that amount was  
6 calculated?

7 A. That's something that Tommy would have  
8 done.

9 Q. Do you know how he did it?

10 A. I believe he did it based on a  
11 percentage.

12 Q. And do you know how he generated that  
13 percentage?

14 A. In Xactimate.

15 Q. And do you know where he gathered the  
16 numbers that created that percentage?

17 A. Okay. So, in Xactimate, you can --  
18 there's several options you can choose on how to  
19 apply depreciation. He would typically choose  
20 percentage.

21 Q. All right. And that's a --

22 A. And choose a percentage -- I'm sorry.  
23 Say it again.

24 Q. No. I was talking over you. I  
25 apologize.

1           A. He would typically choose a percentage  
2       that -- to -- based on his opinion.

3           Q. Okay. And his opinion of what, exactly?

4           A. Depreciation being applied is  
5       opinion-based. It -- I mean, it's typical in our  
6       industry to go -- to go by age and condition.  
7       Some people use percentages. Some people use  
8       specific amounts. It is -- it's something that  
9       can be adjusted.

10          Q. Okay. And so here, it was your  
11       understanding that he used the percentage; is that  
12       correct?

13          A. Yes.

14          Q. What was the percentage that he used?

15          A. I guess you would probably have to go in  
16       -- you might be able to go check at the bottom.  
17       It might show it. Well, maybe not all the way to  
18       the bottom.

19          Q. Do you need me to go up?

20          A. Yes. I don't recall, because I rarely  
21       use percentage. So can you go up a little bit?

22          Q. Yes.

23          A. Hang on. He's got OSB. Keep going up.  
24       Okay. So, no, it does not indicate the  
25       percentage. Oh, hang on. No. That's not it. A

1 calculation of one of the line items that has  
2 depreciation applied, you should be able to  
3 determine what that percentage is.

4 Q. All right. Do you know if he applied the  
5 same amount of percentage on each item throughout  
6 this estimate or if it varied based on the item?

7 A. I don't know.

8 Q. All right. And so it's fair to say you  
9 don't know how he came up with whatever percentage  
10 figure he used?

11 A. Well, like I said, depreciation is an  
12 opinion, no matter how you apply it. It's based  
13 on opinion. So it -- if he chose a percentage,  
14 then that's his opinion of what the depreciation  
15 should be.

16 Q. All right. And so do you agree with what  
17 he's put down in depreciation throughout this  
18 estimate?

19 A. No.

20 Q. Okay. And in what respect do you  
21 disagree with his amount of depreciation?

22 A. In my opinion, it should have had higher  
23 depreciation applied.

24 Q. I want to go through this estimate in a  
25 little more detail. I hope to not look at every

1           Q.     Do you know whether or not there were  
2     rodent droppings on the property that would have  
3     rendered the water to be Cat 3?

4           A.     No.   That would be a judgment call.

5           Q.     And whose judgment call would that be in  
6     this case?

7           A.     I'm assuming Tommy's.

8           Q.     Okay.   So when it says Cat 3 in here,  
9     we're relying on Tommy's opinion on that; is that  
10    correct?

11          A.     Yes.

12          Q.     All right.

13          A.     But, also, based on the photos, I don't  
14    disagree.

15          Q.     Okay.   And what do the photos tell you  
16    that makes you think it's Cat 3 water?

17          A.     The age of the property, the condition of  
18    it, and the -- basically that.

19          Q.     All right.   And what about the condition  
20    of the property and the age of the property makes  
21    you think that the water is at Cat 3 levels?

22          A.     In my opinion, I think it was -- it was  
23    reasonable to use that line item based on the  
24    photos that I saw of the house.

25          Q.     And I think we're getting to the root of

1 have to remove the toilet.

2 Q. All right. And you also have on here  
3 cleaning the toilet at 356; is that correct?

4 A. Yes.

5 Q. All right. And it says heavy. Does that  
6 mean there's different grades of clean that would  
7 apply to a toilet?

8 A. Yes.

9 Q. And what are those different grades or  
10 degrees?

11 A. Heavy, standard and light.

12 Q. All right. And which one is the most  
13 expensive to clean?

14 A. Heavy.

15 Q. All right. And do you know why this  
16 toilet is considered to be a heavy clean?

17 A. It's an opinion.

18 Q. Okay. And whose opinion would that be?

19 A. Tommy Tompkins.

20 Q. All right. What is 357?

21 A. Angle stop valve.

22 Q. And is that to detach and replace?

23 A. No. I think that's to replace the angle  
24 stop.

25 Q. That's to fully replace the angle stop

1 valve?

2 A. I think so.

3 Q. Okay. And why would we have to replace  
4 the angle stop valve?

5 A. Can you go down a little bit?

6 Q. Yeah.

7 A. Well, to me, it's -- to me, it should  
8 have been the plumbing fixture supply line and  
9 switch should have been allowed for unless that  
10 wall is being affected.

11 Q. What is an angle stop valve?

12 A. It's so the pipes that come through the  
13 wall, there's a small little valve, like behind  
14 your toilet whenever you -- and underneath your  
15 sink, it's got a little turn, turn knob. That  
16 valve is what turns your water on and off to the  
17 toilet or to the sink.

18 Then the plumbing supply line is what  
19 goes from the angle stop valve to the actual  
20 toilet or to the sink.

21 Q. Okay. And so I'm looking here at Line  
22 Item Number 357. Tommy Tompkins was of the  
23 opinion that the angle stop valve needed to be  
24 replaced. Is that what I'm seeing here?

25 A. Yes. To me, I would have used the other

1 line item, rather than that one. I would have  
2 used a plumbing supply line.

3 Q. Let's go -- this is on Page Parker 21,  
4 and I'm looking at Line Item 332. What is this  
5 line item for?

6 A. To detach and reset the upper cabinetry.

7 Q. All right. And then what is -- did you  
8 observe any damage to the cabinets?

9 A. No. That's why they're detaching and  
10 resetting and not replacing.

11 Q. All right. Well, why are they detaching  
12 them?

13 A. In order to work on the damaged wall  
14 behind it.

15 Q. Okay. And if the cabinets were there,  
16 how do we know the wall behind it is damaged?

17 A. Many times, you can see above the  
18 cabinet. Most of the time, the cabinet doesn't go  
19 all the way to the ceiling. And so if you observe  
20 damage on that wall, then you have to detach and  
21 reset those cabinets.

22 Q. All right. If the cabinets were not  
23 damaged, why would it -- I'm looking at Line Item  
24 333 now. Why would they be sealed and repainted?

25 A. Whenever you -- whenever you detach and

1           A.    Temporary toilets, the workers that are  
2   coming out and doing work, they -- you have got to  
3   supply a toilet. And, usually, nowadays, they  
4   also require hand washing stations, as well. And  
5   so that's a -- it is typical that you would bring  
6   a portable toilet for workers, and they're -- it's  
7   usually not -- not permitted to use the insured's  
8   toilets.

9                 Also, you are detaching and resetting  
10   those in at least -- I saw one of the bathrooms,  
11   so that wouldn't even be there for the poor  
12   workers to even be able to use. But it's -- no,  
13   it's quite typical on a job this scale that's  
14   going to be over, you know, a certain amount of  
15   time, where workers are going to be present, there  
16   has to be provisions for that.

17          Q.    Do you know how Tommy Tompkins came up  
18   with a quantity of two months?

19          A.    I believe it's -- it's -- that's on a per  
20   toilet basis. So it's probably two of them for  
21   one month. But the way you -- it's just a matter  
22   of he doesn't have a note to indicate that, but --  
23   so he's got it as two months.

24          Q.    So do you agree with including two  
25   toilets?

1 line item for?

2 A. That's the on-site storage containers  
3 that we talked about earlier.

4 Q. Okay. And it's talking about two  
5 containers for two months; is that correct?

6 A. Yes.

7 Q. All right. So based on that, does that  
8 change your opinion what Number 521 is for? Is  
9 that maybe one toilet for two months?

10 A. It's -- again, it's an estimated amount.  
11 I don't -- because there's not a note, I don't  
12 know what Tommy's calculations were, as far as  
13 that, but the amounts seem reasonable, based on  
14 the amount of work that's being performed in the  
15 -- in, say, the four months. You know, that's two  
16 containers for two months. But keep in mind that  
17 that's -- what that would be is, the first thing  
18 to be done is to get the container onsite and get  
19 the contents taken out and put into the container.

20 The last thing to be done is to bring  
21 them back. And so the two months is -- that makes  
22 sense, why it would -- you would have that time  
23 span. But it's also -- even if it was a month and  
24 a week, they only -- you can only rent them by the  
25 month. So if you are over a month time, you are